

REMARKS

In view of the following remarks, Applicants respectfully request consideration and allowance of the subject application.

U.S. Patent Application Serial No. 09/589,778 was filed with claims 1-12.

- 5 Claims 1-10 were indicated as allowed in the Office Action mailed September 2, 2003. Accordingly, claims 1-10 have been canceled without prejudice or disclaimer in this divisional application. Claim 11 was rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,920,700 to Gordon et al. (hereinafter, "the '700 patent") in view of U.S. Patent No.
- 10 6,173,293 to Thekkath et al. (hereinafter, "the '293 patent").

- Applicants submit the rejection of claim 11 was improper because the '293 patent is not available as prior art against the pending claims pursuant to the exception provided by 35 U.S.C. §103(c). This application was filed after November 29, 1999, and therefore the application qualifies for the exception
- 15 provided by 35 U.S.C. §103(c).

- If at all, the '293 patent qualifies as prior art only under 35 U.S.C. §102(e), and is assigned to Digital Equipment Corporation (DEC). Compaq Computer Corporation, the assignee of the present application, acquired DEC in 1998. Accordingly, at the time the inventions of this application were made,
- 20 the '293 patent and the subject matter of this application were both owned by, or subject to an assignment to, the same person, *i.e.*, Compaq Computer Corporation.

Hewlett Packard purchased all assets of Compaq Corporation in 2002. The assignment of the '293 patent was effective November 3, 2003, and was recorded at reel/frame 014,102/0224. The assignment of the present application was effective December 2, 2003, and was recorded at reel/frame 014,177/0428. Therefore, this application and the '293 patent are still owned by, or subject to an assignment, to the same person. Accordingly, the '293 patent is not available as prior art for the purposes of a rejection under 35 U.S.C. §103. (See, MPEP 706.02(I)(1)), and these rejections should be withdrawn.

10 Claim 12 depends from claim 11 and is allowable by virtue of this dependency. In addition, claim 12 was indicated as allowable in the Office Action mailed September 2, 2003.

CONCLUSION

Claims 1-10 have been canceled. Claims 11-12 are allowable over the cited references. New claims 13-29 add no new subject matter and are fully supported by the specification. Accordingly, claims 11-29 are believed to be in condition for allowance. Applicants respectfully request reconsideration and prompt issuance of the present application. Should any issue remain that prevents immediate issuance of the application, the Examiner is encouraged to contact the undersigned attorney to discuss the unresolved issue.

Respectfully Submitted,

Jed W. Caven
Lee & Hayes, PLLC



Dated: 12/29/03

Name: Jed W. Caven
Reg. No. 40,551
Phone No. 303-539-0265 x 246

Direct correspondence to:
Hewlett-Packard Company
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

AMENDMENTS TO THE DRAWINGS

No Amendments to the drawings are made herein.